

Minutes of the Hearing Officer meeting held on Wednesday, February 13, 2019 at 12:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Mr. Finlinson, Hearing Officer
Jared Hall, Community & Economic Development Supervisor
Briant Farnsworth, Deputy City Attorney
Applicants

Mr. Finlinson opened the meeting and welcomed those present. He reviewed the public meeting rules and procedures.

CONFLICT OF INTEREST

Mr. Finlinson stated that he has no conflicts of interest for this agenda.

CASE #1563 – MICHAEL & CHRISTY CHRISTOPHERSON – 558 East Vine Street – Project #19-019

Michael and Christy Christopherson were the applicants present. Jared Hall reviewed the location and request for a variance to the side-yard setback requirements located at the property addressed 558 East Vine Street. The property is located in the R-M-10 zone. Mr. Hall stated the variance requested is to allow a significant addition to the west side of their existing home. Minimum side yard setbacks in the R-M-10 are 8-feet.

Mr. Finlinson asked if the detached garage on the west side of the building encroaches into the setback. Mr. Hall stated that it contributes to this issue. A variance was granted in 2001 that reduced the 10-foot side yard requirement to 8 feet. The normal side yard is 8-feet and it must total 20-feet. The planner in 2001 brought the variance request to the Hearing Officer and did so because in his interpretation of the two side-yards did not total 20 feet because he used the side yard measurements from the accessory structure on the east side of the home instead of the home itself. The construction work in relation to this variance was never started and the project was dropped.

Then, in 2017 Mr. Christopherson came back to the City and had another inquiry for this property. During Staff's research they referenced the 2001 variance which was then misinterpreted to be a "two-foot variance" and understood it to mean that the required side yard setback had been reduced to two feet. In fact, the required side yard setback had been reduced by two feet, requiring a final side yard setback of eight feet.

In 2018 Mr. Christopher came back to the City to submit a new site plan for a different building, which he had based that site plan upon the misinterpreted 2017 variance.

Now, a new variance is proposed for a three-foot allowance on the west property which is needed to accommodate the 2018 proposed building plan that would allow an addition onto his home.

Mr. Hall stated that all other setbacks for the home and proposed additions are compliant

with the exception of the west side yard setback. Staff approved the site plan, allowing for a building permit to be issued. Staff then understood the previously granted variance confusion and realized that a Building Permit had been approved in error. The applicant was notified that day and began to work to purchase or exchange abutting property in order to provide the appropriate setback. When those attempts to purchase additional property failed, Mr. Christopherson came to the City to apply for the variance that is before us today.

Mr. Hall address the hardships finding and stated that Staff does feel that the literal enforcement is not necessary in order to carry out the purpose of the land use ordinance because there is plenty of distance between neighboring buildings and is not creating any type of hazards. The second finding in regard to the special circumstances attached to the property that do not generally apply to other properties in the district are that because a significance addition is possible even with the previously granted variance to 8 feet and an odd shaped lot. The third finding in regards to granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the district does not apply because an addition had been planned previously that did not need a variance and does not represent a substantial property right. The fourth finding in regards to the variance which will not substantially affect the General Plan and will not be contrary to the public interest because nothing in the request brought forth by Mr. Christophersons request is contrary to public interest and because there is plenty of space in the area and the neighbor to the west does not have concerns about the proximity to the property line. The final finding in regard to the spirit of the Land Use Ordinance is observed, and substantial justice done, given everything that has happened Staff feels that the request does meet this requirement.

Mr. Hall addressed the unreasonable hardship analysis and stated that the hardship needs to be associated with the property and there are clearly instances that this does apply. The second hardship finding is that it must come from circumstances peculiar to the property, not from conditions that are general to the neighborhood. Staff could not find supporting evidence since the property was previously approved for an addition to the home.

Based on review and analysis of the application material, subject site and surrounding area, and applicable Murray Municipal Code sections, the Community and Economic Development Staff finds that the proposal does not meet the standards established for granting a variance and recommends denial of the requested variance to the requirements of Section 17.116.060(B) allowing a three foot (3') side yard on the west property line for the property addressed 558 East Vine Street.

Mr. Finlinson opened the meeting for public comment.

Howard Jones, 558 E Vine Street #2A, stated he is a neighbor and has seen the plans for the proposed addition. Mr. Jones sated that he is in support of the project and variance as

it will benefit the City's tax base, neighborhood improvement and lack of any conflict between neighboring properties.

Michael Christopherson, 558 East Vine Street, stated he is the property owner and he believes he was awarded the variance in 2001 was because on the east side of the garage there is 10 feet of garage and 30 feet of driveway and nothing will ever be built there. Mr. Christopherson stated that when the condos on the east side of his property were developed that he gave some of his land to them to allow for an easement access. Mr. Christopherson further explained that his request should be approved because the Building Department has issued him a construction permit and it is approved by them. The plans can't be adjusted to eliminate 5 feet of the proposed addition either.

Christy Christopherson, 558 East Vine Street, stated she is disappointed that she sold her home in Sandy, Utah to build in Murray and is in support of approval.

Karla Anderson, 550 East Vine Street, stated that she is concerned that the proposed home plan is too big to fit on his property. Ms. Anderson stated she is planning on demolishing her house in summer of 2019 to build a brand-new house and is leery to sell any of her property to Mr. Christopherson in case she needs it for her future plans. Ms. Anderson stated that the fence that used to run along the property lines and served as a boundary was torn down by Mr. Christopherson, and he ruined her property when he removed the cement drive way, but he did offer to rebuild the fence and put in a nice foundation. Ms. Anderson said she believes that the fence posts have been moved further into her property than they used to be. Mr. Finlinson replied that that the proposal submitted by Mr. Christopherson does not show any boundary line proposal. Ms. Anderson stated that she was advised by all of her children not to sell any property as it could cause her future hardships as well.

Michael Christopherson, 558 East Vine Street, stated that he did not draw up the site plan it was produced by Veri3D. The site plan was surveyed, verified and submitted to Salt Lake County. Mr. Christopher stated the he offered a copy of the verified survey to Ms. Anderson and put Veri3D on notice that they need to come back and reset the fence posts if they are not accurate. Mr. Finlinson stated that it seems like some land markers have been moved around to accommodate the building process and that there are plans in place to ensure the fence will be put back in the proper place.

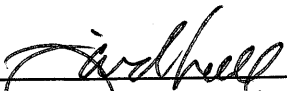
A unidentified resident stated she attended to learn more about the proposed variance and did not have any comment.

The public comment portion was closed.

Mr. Finlinson stated he will forward his written decision to the Community Development Office at 4646 South 500 West, by noon on Wednesday, February 20, 2019.

There was no other business.

The meeting was adjourned at 1:06 p.m.



Jared Hall, Community & Economic
Development Supervisor